

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

VAQUERIA TRES MONJITAS, INC. and
SUIZA DAIRY, INC.,

Plaintiffs,

JAVIER RIVERA AQUINO, in his official
capacity, as the Secretary of the Department of
Agriculture for the Commonwealth of Puerto
Rico, and CYNDIA E. IRIZARRY, in his
official capacity, as Administrator of the Office
of the Milk Industry Regulatory Administration
for the Commonwealth of Puerto Rico,

Defendants.

Civil No. 04-1840 (DRD)

ORDER

Pending before the Court are: (a) *Motion Requesting Order* filed by the Puerto Rico Farmers Association (“PRDFA”), Docket No. 1704; (b) *Motion Requesting Modification of Court Order Entered at Docket No. 1705* filed by the PRDFA, Docket No. 1707; (c) *Motion Requesting Order that Ganaderos Unidos be Included in the Conversations between Dairy Farmers and Government Defendants* filed by Ganaderos Unidos de la Industria Lechera, Inc. (“Ganaderos Unidos”), Docket No. 1708; (d) *Motion in Compliance with Order, Dkt. No. 1705, and in Opposition to PRDFA’s Dkt. No. 1707* filed by Suiza Dairy, Inc. (“Suiza”), Docket No. 1709; and (e) *Vaquería Tres Monjitas, Inc., Position Regarding Order at Dkt. 1705* filed by Vaquería Tres Monjitas, Inc. (“VTM”), Docket No. 1711.

After reviewing the parties’ motions, it is hereby ordered:

1. VTM’s Motion, Docket No. 1711, is hereby granted. The parties shall meet sometime between October 13th and October 19th, 2010.

2. PRDFA's *Motion Requesting Order*, Docket No. 1704, is granted. PRDFA shall meet with the defendants and their expert(s) in good faith, prior to the hearing set for October 20, 2010, in order to attempt to reach a good faith agreement on the factors of the proposed CAPM formula, as well as other pending claims. PRDFA is hereby ordered to invite its own expert to join the meeting with the defendants and their expert(s). The Court considers the motion in good faith, and as an attempt to provide conciliatory efforts in reaching a settlement as to the CAPM formula.
3. PRDFA's *Motion Requesting Modification of Court Order Entered at Docket No. 1705*, Docket No. 1707, is noted. The Court, however, understands that at some point in this litigation, all the parties in interest must meet, in good faith, with their respective experts in order to reach an agreement as to all pending matters in this case. The Court reminds the parties that at the Scheduling Conference held on May 20, 2010 in Civil No. 08-2191 (DRD), the Court specifically ruled that a final disposition of Civil No. 04-1840 will take precedence over Civil No. 08-2191 (DRD). The Court is cognizant that there is a modest part of the remedy that is still pending before the United States Supreme Court. The Court further ordered that it will not entertain Suiza's request to intervene in Civil No. 08-2191 at that time on the same grounds. The Court may, however, authorize Suiza to participate, as PRDFA and Indulac are currently participating in Civil No. 04-1840 (DRD). *See Minutes of May 20, 2010, Docket No. 1618. Hence, Defendants' Renewed Motion To Dismiss Ganaderos Unidos, Inc. For Failure To State A Claim Pursuant To Fed.R.Civ.P. 12(b)*, Docket No. 1608 (re: Civil No. 08-2380 (DRD)), as well as

Motion To Intervene As A Party Under Rule 24 of the Federal Rules of Civil Procedure, Docket No. 1615 (re: Civil No. 08-2191 (DRD)), are hereby denied without prejudice, at this stage of the proceedings, as the Court is determined to reach a final disposition in Civil No. 04-1840.

4. Ganaderos Unidos' *Motion Requesting Order that Ganaderos Unidos Be Included in the Conversations between Dairy Farmers and the Government Defendants*, Docket No. 1708, is granted. *See also* Docket No. 1718. Ganaderos Unidos may attend the meeting as an observer, as the Puerto Rico Supreme Court has yet to rule on Ganaderos Unidos' petition for certiorari. Hence, PRDFA's *Motion In Opposition to Ganaderos Unidos' Motion Requesting Order Filed At Docket No. 1708*, Docket No. 1718, is noted.
5. Suiza's *Motion In Compliance With Order, Dkt. No. 1705, And In Opposition To PRDFA's Dkt. No. 1707*, Docket No. 1709, is noted.
6. The parties shall meet sometime between October 13, 2010 through October 19, 2010, that is, prior to the hearing set for October 20, 2010. The parties shall be ready to report on their meeting with their respective experts, and be prepared with proposed recommendations to the Court on Regulation No. 12.
7. The Clerk shall close the following motions:
 - (a) *Defendants' Renewed Motion To Dismiss Ganaderos Unidos, Inc. For Failure To State A Claim Pursuant To Fed.R.Civ.P. 12(b)*, Docket No. 1608 (re: Civil No. 08-2380 (DRD)): Denied without prejudice at this stage of the proceedings.
 - (b) *Motion To Intervene As A Party Under Rule 24 of the Federal Rules of Civil Procedure*, Docket No. 1615 (re: Civil No. 08-2191 (DRD)): Denied without

prejudice at this stage of the proceedings.

- (c) *Motion Requesting Order* filed by the Puerto Rico Farmers Association (“PRDFA”), Docket No. 1704: Granted and noted.
- (d) *Motion Requesting Modification of Court Order Entered at Docket No. 1705* filed by the PRDFA, Docket No. 1707: Noted.
- (e) *Motion Requesting Order that Ganaderos Unidos be Included in the Conversations between Dairy Farmers and Government Defendants* filed by Ganaderos Unidos, Docket No. 1708: Granted.
- (f) *Motion in Compliance with Order, Dkt. No. 1705, and in Opposition to PRDFA’s Dkt. No. 1707* filed by Suiza, Docket No. 1709: Noted.
- (g) *Vaquería Tres Monjitas, Inc., Position Regarding Order at Dkt. 1705* filed by VTM, Docket No. 1711: Granted.
- (h) PRDFA’s *Motion In Opposition to Ganaderos Unidos’ Motion Requesting Order Filed At Docket No. 1708*, Docket No. 1718: Noted.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 8th day of October, 2010.

s/Daniel R. Domínguez
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE